

Atty Docket No.: [01-1004 RCE 1]

REMARKS

Applicant submits this Response in response to the Office Action mailed December 28, 2004. Applicant has amended claims 1-12 and 17, canceled claims 14 and 15 (without prejudice to re-presenting the subject matter of these claims at a later time), and withdrawn claims 18-31 from consideration (without prejudice to re-presenting these claims in a future related application). No new matter has been added. Claims 1-12 and 16-17 are currently pending.

As noted in paragraphs 1-3 of the Office Action, Applicant confirms the conversation between the Examiner and Applicant's representative indicating that Applicant elects to continue prosecution of claims 1-12 and 14-17, and withdraws claims 18-31 from consideration in the present application, without prejudice to re-presenting the subject matter of such claims in a future related application.

Applicant respectfully requests entry of the claim amendments presented in this Response. The amendments clarify the operation of the claimed methods and apparatus, which Applicant believes shall be helpful to the Examiner in light of the Examiner's comments in the Office Action with respect to the interpretation of the claims and the applicability of the cited references to the claims. Support for the amendments can be found in the specification and drawings as filed: for example, see paragraphs [078] to [081] and Figure 7. These amendments therefore put the present application (at a minimum) in better condition for appeal and, as Applicant discusses more fully below, places the application in condition for allowance in view of the references cited by the Examiner.

In paragraphs 3 and 4 of the Office Action, the Examiner has rejected claims 1-12 and 14-16 under 35 U.S.C § 102(e) as being anticipated by U.S. Patent No. 6,564,261 to Gudjonsson et al. ("Gudjonsson"). In paragraph 5 of the Office Action, the Examiner has rejected claim 17 under 35 U.S.C § 103 as unpatentable over Gudjonsson in view of U.S Patent No. 6,584,122 to Matthews et al. ("Matthews"). Applicant traverses these rejections, as further discussed below.¹

¹ As Applicant's remarks with respect to Applicant's amended claims and the Examiner's rejections are deemed to be sufficiently persuasive to overcome these rejections, Applicant's silence as to other requirements applicable to

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Gudjonsson describes a “system and corresponding method of establishing communication session(s) between users as a function of their availability and/or communication device(s).” (Gudjonsson, col. 1, ll. 12-15.) This system includes a network of servers along with a number of client terminals connected to the servers. (Id., col. 2, ll. 51-53.) The servers provides a “routing service” that allow users to send “invitations” to other users to establish communication sessions. (Id., col. 3, ll. 14-17.) The invitations are sent to the routing service serving the receiving user, which determines how to handle the communication request (for example, forwarding to a particular user client device) based on “a logic specified by the same receiving user.” (Id., col. 3, ll. 17-23.) The invitations are described as taking the form of SIP invitations. (Id., col. 9, ll. 8-11.) Conspicuously absent from Gudjonsson, however, is any description of how the “routing logic” is specified by the user to the routing service – the system described in Gudjonsson notes that the “[routing service] allows users to access and manage their routing table” (id., col. 17, ll. 36-37), but provides no teaching as to how this is done. Moreover, Gudjonsson provides no description of an instant messaging service or the ability to receive or transmit instant messages. The system described in Gudjonsson uses SIP invitations to establish communication pathways, and as those skilled in the art are aware, SIP messaging is not the same as instant messaging.²

In contrast to the system described in Gudjonsson, Claim 1 recites a method that includes:

receiving a first instant message from a user through a real-time communication channel that is established by the instant messaging service and containing at least a request to set one or more rules for responding to a communication attempt to at least one of the communication devices;

such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicant that such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future

² Applicant notes that there is work currently underway within the Internet Engineering Task Force (IETF) to develop extensions to SIP which would permit SIP to be used for instant messaging. This work is being managed by the “SIMPLE” working group of the IETF (<http://www.ietf.org/html.charters/simple-charter.html>). Applicant’s representative is unaware of any of this work constituting prior art to the present application. Applicant notes these efforts only as an example of the distinction drawn by those of skill in the art, even now, between “SIP” and “instant messaging.” See also RFC 3428, “Session Initiation Protocol (SIP) Extension for Instant Messaging,” The Internet Society, December 2002.

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setting the one or more rules based on information in the first instant message; and

transmitting to the user, through the real-time communication channel, a second instant message containing a notification indicating the setting of the one or more rules of the at least one communication device.

Gudjonsson does not teach or suggest such a method. For example, Gudjonsson does not teach or suggest “receiving a first instant message from a user through a real-time communication channel that is established by the instant messaging service and containing at least a request to set one or more rules for responding to a communication attempt to at least one of the communication devices,” as recited in claim 1. At best, Gudjonsson describes processing communication requests to a user according to a routing logic specified by a user. However, nowhere does Gudjonsson describe receiving an instant message from a user through a real-time communication channel that includes a request to set one or more rules for responding to communications attempts to communications devices. Likewise, Gudjonsson does not teach or suggest “setting the one or more rules based on information in the first instant message,” as Gudjonsson does not describe any instant messaging that includes information for setting rules for responding to communications requests. Furthermore, Gudjonsson does not teach or suggest “transmitting to the user, through the real-time communication channel, a second instant message containing a notification indicating the setting of the one or more rules of the at least one communication device,” as nothing in Gudjonsson describes using instant messaging to send a notification to a user indicating the setting of rules for responding to communications attempts.

In the Office Action, the Examiner argues that the description in Gudjonsson of the use of SIP as the signaling protocol reads on the claimed instant messaging service. (Office Action, p. 4.) Applicant disputes this interpretation, as there is significant evidence that SIP does not provide an instant messaging service (see, for example, RFC 3428, “Session Initiation Protocol (SIP) Extension for Instant Messaging,” The Internet Society, December 2002, page 3.)

The Examiner further argues in the Office Action that “Gudjonsson et al teach on column 3 line 14-63 how the connection is configured. Gudjonsson et al teach on column 3 line 19-22 a logic (claimed ‘one or more rules’). Gudjonsson et al teach on column 9 line 65 to column 10 line 7 the rules are based on an invitation for text chat (reads on claimed ‘based on information in the

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message')." (Office Action, p. 4.) Applicant believes the Examiner has misread the description of Gudjonsson in the context of the claims of the present application. Applicant agrees that Gudjonsson does explain at the portion cited by the Examiner that a "text chat" may be established between a user A and a user B through the routing service. However, even to the extent the "routing logic" described in Gudjonsson can be read as the "one or more rules" recited in claim 1 (as the Examiner contends), Gudjonsson does not describe that the messages involved in establishing the communications channel for such text chat (i.e., the "invitations" described in Gudjonsson), or the messages of the text chat itself, contain any information which is used to set the "routing logic" described in Gudjonsson (which the Examiner is reading as analogous to the "one or more rules for responding to a communication attempt to at least one of the communication devices" of claim 1). (Gudjonsson, col. 9, l. 65 to col. 10, l. 7.)

For at least the foregoing reasons, Gudjonsson does not teach each and every element of claim 1. (Indeed, Gudjonsson does not teach any element of claim 1.) Applicant therefore respectfully requests that the Examiner withdraw the rejection of claim 1. As claims 2-4 and 16 depend from claim 1, and therefore include all of the limitations of claim 1, Applicant submits that claims 2-4 and 16 are patentable over Gudjonsson for at least the same reasons as claim 1,³ and therefore Applicant respectfully requests that the Examiner withdraw the rejections of claims 2-4 and 16.

Claims 5-8 recite computer-readable media capable of configuring a computer to perform the methods of claims 1-4, respectively, and therefore are patentable over Gudjonsson for at least the same reasons as claim 1. Applicant therefore respectfully requests that the Examiner withdraw the rejections of claims 5-8 as well.

Claim 9 recites an apparatus that includes:

means for receiving a first instant message from a user through a real-time communication channel that is established by the instant messaging service and

³ As Applicant's remarks with respect to the base independent claims of the present application are deemed to be sufficient to overcome the Examiner's rejections of all claims dependent therefrom, Applicant's silence as to the Examiner's assertions with respect to any of the dependent claims is not a concession by Applicant to the Examiner's assertions as to these claims, and Applicant reserves the right to analyze and dispute such assertions in the future.

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containing at least a request to set one or more rules for responding to a communication attempt to at least one of the communication devices;

means for setting the one or more rules based on information in the first instant message; and

means for transmitting to the user, through the real-time communication channel, a second instant message containing a notification indicating the setting of the one or more rules of the at least one communication device.

Gudjonsson does not teach or suggest such an apparatus. For example, Gudjonsson does not teach or suggest a "means for receiving a first instant message from a user through a real-time communication channel that is established by the instant messaging service and containing at least a request to set one or more rules for responding to a communication attempt to at least one of the communication devices," as recited in claim 9. As noted above, at best Gudjonsson describes servers that provide a "routing service" that processes communication requests to a user according to a routing logic specified by a user. However, nowhere does Gudjonsson describe any device that receives an instant message from a user through a real-time communication channel that includes a request to set one or more rules for responding to communications attempts to communications devices. Likewise, Gudjonsson does not teach or suggest a "means for setting the one or more rules based on information in the first instant message," as Gudjonsson does not describe any instant messaging that includes information for setting rules for responding to communications requests. Furthermore, Gudjonsson does not teach or suggest a "means for transmitting to the user, through the real-time communication channel, a second instant message containing a notification indicating the setting of the one or more rules of the at least one communication device," as nothing in Gudjonsson describes using instant messaging to send a notification to a user indicating the setting of rules for responding to communications attempts.

For at least the foregoing reasons, Gudjonsson does not teach each and every element of claim 9. (Indeed, Gudjonsson does not teach any element of claim 9.) Applicant therefore respectfully requests that the Examiner withdraw the rejection of claim 9. As claims 10-12 depend from claim 9, and therefore include all of the limitations of claim 9, Applicant submits that claims 10-12 are patentable over Gudjonsson for at least the same reasons as claim 9, and therefore Applicant respectfully requests that the Examiner withdraw the rejections of claims 10-12.

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Claim 17 recites a method that includes:

receiving a call from the user over the voice network at a speech processor;
identifying a request to set one or more rules for responding to a communication attempt to at least one of the communication devices associated with the user based on information in the call;
forwarding the request to the at least one unified communication manager;
setting the one or more rules based on the information in the call; and
transmitting to the user, through a real-time communication channel that is established by the instant messaging service, an instant message that contains a notification that indicates the setting of the one or more rules.

Gudjonsson does not teach or suggest such a method. For example, Gudjonsson does not teach or suggest “identifying a request to set one or more rules for responding to a communication attempt to at least one of the communication devices associated with the user based on information in the call” or “setting the one or more rules based on the information in the call,” as recited in claim 17. As noted with respect to claim 1, at best Gudjonsson describes processing communication requests to a user according to a routing logic specified by a user. However, nowhere does Gudjonsson describe identifying a request to set one or more rules for responding to a communication attempt to at least one of the communication devices based on information in a received call, much less setting the one or more rules based on information in the call. Moreover, Gudjonsson does not teach or suggest “transmitting to the user, through a real-time communication channel that is established by the instant messaging service, an instant message that contains a notification that indicates the setting of the one or more rules,” as nothing in Gudjonsson describes using instant messaging to send a notification to a user indicating the setting of rules for responding to communications attempts.

The Examiner has relied upon Matthews to teach “a DSP (claimed ‘speech processor’) in a voice network.” (Office Action, p. 6.) However, Matthews does not describe at least those elements noted above that are clearly missing from the description in Gudjonsson.

Since Gudjonsson and Matthews, whether taken alone or in combination, fail to teach or suggest each and every element recited in claim 17, Applicant believes claim 17 is patentable over

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Gudjonsson and/or Matthews, and respectfully requests that the Examiner withdraw the rejection of claim 17.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that the pending claims are in condition for allowance. Reconsideration and allowance are respectfully requested. If there are any outstanding issues which need to be resolved to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned representative by phone at the number indicated below to discuss such issues. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. With respect to this application, please charge any other necessary fees and credit any overpayment to that account.

Respectfully submitted,

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